



City of Seattle

Gregory J. Nickels, Mayor

Department of Design, Construction and Land Use

D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

Application Number: 2204441

Applicant Name: Paul Wozniak for Voicestream Wireless

Address of Proposal: 1633 43rd Avenue E.

SUMMARY OF PROPOSED ACTION

Master use permit to establish use for future installation of a minor communication utility (Voicestream Wireless) consisting of two (2) panel antennas (2 sector) on the roof of an existing apartment building. Project includes equipment cabinet to be located within a shed on a 132 sq. ft. concrete slab attached to the existing building. The applicant is proposing a deck above the shed.

The following approvals are required:

Administrative Conditional Use Review - to allow a minor communication utility in a residential Lowrise 3 (L3) zone.

SEPA - Environmental Determination - *Chapter 25.05*, Seattle Municipal Code

SEPA DETERMINATION: ☐ Exempt ☐ DNS ☐ MDNS ☐ EIS

☒ DNS with conditions

☐ DNS involving non-exempt grading or demolition or
involving another agency with jurisdiction.

BACKGROUND DATA

Site Location and Description

The subject property is located in a Multi-Family Residential Lowrise 3 (L3) zone at 1633 43rd Avenue East. The site is at the corner of East Blaine Street and 43rd Avenue East in the Madison Park neighborhood of Seattle.

The site is developed with an existing three (3) story apartment building (not including the daylight basement) and an associated parking area. The surrounding zoning and uses are:

North: Multi-family residential, L3 zone
East: Multi-Family residential, L3 zone
South: Single Family residential, SF 7200 zone
West: Multi-family residential, L-2 zone

Proposal Description

Master use permit to establish use for installation of a minor communication utility (Voicestream) on the roof of an existing apartment building. Project includes two rooftop antennas to be enclosed in a tubular fiberglass shroud resembling a chimney, and an equipment cabinet to be located within an attached shed on a 132 sq. ft. concrete slab. The applicant also proposes a deck above the shed for the enjoyment of the tenants of the apartment building. The accessory parking lot has parking spaces for (8) eight vehicles meeting code requirements.

The top of the proposed minor utility and screening is proposed at 43 ft. 1 inch above existing grade. The height limit for the L3 zone is twenty-five (30) feet above grade and may extend to 35 feet with a pitched roof. Approval through an Administrative Conditional Use Permit is required for both locating a minor communication utility in a residential zone and for constructing minor communication utilities that exceed the height limit of the zone.

Public Comment

The public comment period for this project ended January 1, 2003. DCLU has received two (2) comment letters during the comment period objecting to the proposal. The two comment letters expressed concern regarding adverse impacts to the environment, views and an undue mental stress and anxiety to the large community of retired persons who live in the Madison Park neighborhood.

ADMINISTRATIVE CONDITIONAL USE CRITERIA AND ANALYSIS

Section 23.57.011.B of the Seattle Municipal Code (SMC) provides that a minor communication utility may be permitted in a Multi-Family zone as an Administrative Conditional Use subject to the requirements and conditioning considerations of this Section enumerated below.

- 1. The project shall not be substantially detrimental to the residential character of nearby residentially zoned areas, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units.*

According to the plans, the antennas will conform to codified requirements regarding setbacks and visual impacts (SMC 23.57.011). To provide for the least intrusive facility in a low rise neighborhood, the proposed antenna cables, electric and phone lines from the ground equipment to the roof top will be integrated into the design of the building and the antennas will be screened by a tubular shroud resembling a chimney that will completely obscure the antennas from view from any direction. The screens are designed to mimic the look of a residential chimney. The applicant's plans depict integration of the screening facility into the architectural design of the existing building via a neutral screen color that would generally match the color of the host building. The screening of the antennas will be sympathetic in material and design to that of a residential chimney. Reference letter from applicant dated June 3rd, 2003 and letter from Pyrgos Engineering dated May 23, 2003 to be microfilmed with the file.

Some views from neighboring residential structures may be altered by the presence of the facility. The applicant has provided photographically simulated evidence suggesting that the visual intrusion would be minor.

The proposed minor communication utility is not likely to result in substantially detrimental compatibility impacts to the existing neighborhood. Neighbors and tenants of the host building will not likely know the facility exists, in terms of its land use, once it is constructed, and cell phone coverage in the area will be improved which will likely be beneficial to many residents and visitors to the neighborhood.

Traffic will not be affected by the presence of the constructed facility. The antennas will not emit noise, and any noise associated with the equipment cabinet will be shielded by the walls of the shed in which it is to be located. No dwelling units will be displaced in conjunction with this application. Thus, the proposal will not be substantially detrimental to the residential character of nearby residentially zoned areas.

- 2. The visual impacts that are addressed in section 23.57.016 shall be mitigated to the greatest extent practicable.*

According to the plans submitted, the proposed antennas will be entirely screened from view and will be as inconspicuous as possible, within the parameters of the SMC, while remaining functionally effective. Therefore, the proposal complies with this criterion.

The chimney-like shields, for screening of the (2) two panel antennas, will be located as follows; 1) approximately 9 ft. 3 inches north of the south edge of the building at mid wall and 2) approximately 6 ft. east of the west edge of the building at mid wall.

23.57.016 Visual Impacts and Design Standards:

- A. *Telecommunication facilities shall be integrated with the design of the building to provide an appearance as compatible as possible with the structure. Telecommunication facilities, or methods to screen or conceal facilities, shall result in a cohesive relationship with the key architectural elements of the building.*

The applicant's plans depict integration of the screening facility into the architectural design of the existing building by proposing screen shapes similar to that of tubular fiberglass chimney and by proposing screen colors that generally match the color of the host building. The screened antennas will be sympathetic in materials and design to that of a residential chimney. Therefore, the proposal complies with this criterion (See applicant's declarations and submitted plans).

- B. *Not Applicable.*

- C. *If mounted on a flat roof, screening shall extend to the top of communication facilities except that whip antennas may extend above the screen as long as mounting structures are screened. Said screening shall be integrated with architectural design, material, shape and color. Facilities in a separate screened enclosure shall be located near the center of the roof, if technically feasible. Facilities not in a separate screened enclosure shall be mounted flat against existing stair and elevator penthouses or mechanical equipment enclosures shall be no taller than such structures.*

The applicant's plans depict screening that extends to the top of the proposed facilities. Integration of the screening facility into the architectural design of the existing building is proposed via screen shapes similar to that of tubular fiberglass chimneys and by using screen colors that generally blends with the color of the host building.

- D. *Not Applicable.*

- E. *Not Applicable.*

- F. *New antennas shall be consolidated with existing antennas and mechanical equipment unless the new antennas can be better obscured or integrated with the design of other parts of the building.*

No existing antennas or minor communication utility equipment exists on the subject structure. Therefore, the proposal complies with this criterion (See applicant's declarations and submitted plans).

- G. *Not Applicable.*

3. *Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when:*

- a.) *the antenna is at least one hundred feet (100') from a MIO boundary, and*
- b.) *the antenna is substantially screened from the surrounding neighborhood's view.*

The proposed site is not located within a Major Institution Overlay District. Therefore, this requirement does not apply to the subject proposal.

- 4. *If the minor communication utility is proposed to exceed the zone height limit, the applicant shall demonstrate that the requested height is the minimum necessary for the effective functioning of the minor communication utility.*

The applicant's RF engineer has provided evidence (Letter from David J. Pinion, P.E., dated August 14, 2002) that the proposed antenna height, (8) eight ft. (4) four inches above the existing roof, is the minimum height necessary to ensure the effective functioning of the utility in the most inconspicuous manner possible. Therefore, the proposal complies with this criterion.

- 5. *If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.*

The proposed minor communication utility will not be a new freestanding transmission tower. Therefore, this requirement does not apply to the subject proposal.

SUMMARY

The proposed project is consistent with the administrative conditional use criteria of the City of Seattle Municipal Code as it applies to wireless communication utilities. The facility is minor in nature and will not be detrimental to the surrounding area while providing needed and beneficial wireless communications service to the area.

The proposed project will not require the expansion of public facilities and services for its construction, operation and maintenance. The site will be unmanned and therefore will not require waste treatments, water or management of hazardous materials. Once installation of the facility has been completed, approximately one visit per month would occur for routine maintenance. No other traffic would be associated with the project.

DECISION - ADMINISTRATIVE CONDITIONAL USE

The Conditional Use application is **CONDITIONALLY APPROVED**.

SEPA ANALYSIS

Environmental review resulting in a Threshold Determination is required pursuant to the State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part: "Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation," subject to some limitations. Under such limitations/circumstances (SMC 25.05.665 D1-7) mitigation can be considered.

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated August 20, 2002. The information in the checklist, public comment, and the experience of the lead agency with review of similar projects forms the basis for this analysis and decision.

Short-Term Impacts

Environmental Health

The Federal Communications Commission (FCC) has pre-empted state and local governments from regulating personal wireless service facilities on the basis of environmental effects of radio frequency emissions. As such, no mitigation measures are warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

The applicant has submitted a "Statement of Federal Communication Commission Compliance for Personal Wireless Service Facility" and an accompanying "Affidavit of Qualification and Certification" for this proposed facility giving the calculations of radiofrequency power density at roof and ground levels expected from this proposal and attesting to the qualifications of the Professional Engineer who made this assessment. This complies with the Seattle Municipal Code Section 25.10.300 that contains Electromagnetic Radiation standards with which the proposal must conform. The Department's experience with review of this type of installation is that the EMR emissions constitute a small fraction of that permitted under both Federal standards and the standards of SMC 25.10.300 and therefore pose no threat to public health.

Construction and Noise Impacts

Codes and development regulations applicable to this proposal will provide sufficient mitigation for most impacts. The initial installation of the antennas and construction of the equipment room may include loud equipment and activities. This construction activity may have an adverse impact on nearby residences. Due to the close proximity of nearby residences, the Department finds that the limitations of the Noise Ordinance are inadequate to appropriately mitigate the adverse noise impacts associated with the proposal. The SEPA Construction Impact policies, (SMC 25.05.675.B) allow the Director to limit the hours of construction to mitigate adverse

noise and other construction-related impacts. Therefore, the proposal is conditioned to limit construction activity to non-holiday weekday hours between 7:30 a.m. and 6:00 p.m.

DECISION

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined not to have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2) (c).

[] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)C).

ADMINISTRATIVE CONDITIONAL USE CONDITIONS

1. Screening shall be integrated with architectural design, material, shape and color that are sympathetic to that of a residential chimney.

SEPA CONDITIONS

During Construction

The following condition to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DCLU. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

1. In order to further mitigate the noise impacts during construction, the hours of construction activity shall be limited to non-holiday weekdays between the hours of 7:30 a.m. and 6:00 p.m. This condition may be modified by DCLU to allow work of an emergency nature or allow low noise interior work. This condition may also be modified to permit low noise exterior work after approval from the Land Use Planner.

Signature: (signature on file) Date: June 12, 2003

Joan S. Carson, Land Use Planner II

Department of Design, Construction and Land Use

JSC:bg